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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/770,599
Filing Date: January 26, 2001
Appellant(s): MILLER ET AL.

JUN 28 2007

GROUP 3600

Charles Warner II
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/29/07 appealing from the Office action
mailed 11/20/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

* 6,029,141

BEZOS ET AL

6-1997

* www.redcross.org (Jan. 25, 1999)

* Hopkins, B. R. "Charity Auctions and Tax Law", Fund Raising Management, v25n9, (Nov. 1994), pp 48-50.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Method claims 18-23, 24-25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) www.redcross.org (Jan. 25, 1999) in view (2) BEZOS et al (US Patent 6,029,141) and (3) HOPKINS (Article "Charity Auctions and Tax Law", Nov. 1994.**

Current (June 12, 2006) claim 18 is as followed:

18. (Currently Amended) A method for a donor to make a monetary charitable contribution to a charitable organization comprising the steps of:

(a) receiving at a first internet website an indication of interest from a donor to make a monetary contribution to a charitable organization, the first Internet website being an Internet website of the charitable organization;

(b) hyperlinking the donor to a second internet website to allow the donor to make the monetary contribution, the second Internet website not being an Internet website of the charitable organization;

(c.) the second Internet website providing information regarding projects of the charitable organization to the donor;

(d) the second Internet website receiving a selection of a project from the donor;

(e) the second Internet website providing a plurality of contribution options to the donor for the selected project, the contribution options comprising at least a gift and at least one of the following other contribution options: a sponsorship level, a membership, or a purchase of a tangible item:

- (f) the second Internet website providing information to the donor regarding a minimum monetary donation amount and a tax deductible amount in conjunction with at least one of the other contribution options;
- (g) the second Internet website receiving a selection of a contribution option from the donor;
- (h) the second Internet website receiving an indication of a monetary donation amount from the donor for the selection;
- (i) the second Internet website receiving payment information from the donor for the monetary donation amount;
- (j) the second Internet website receiving delivery information from the donor for the selection;
- (k) the second Internet website providing confirmation information to the donor for the selection; and
- (l) the second Internet website collecting transactional data concerning the donor, the monetary donation amount, and the selection.

Similarly, www.redcross.org fairly teaches a method doing business between a user/customer (donor) and entity (charitable organization such as "Red Cross") wherein the "doing business" is for a customer (donor) to make a monetary charitable contribution to the entity (charitable organization), comprising the steps of:

- (a) receiving at a 1st Internet website (business entity or www.redcross.org) an indication from a donor to make a donation (or a customer to do business with) to the

charitable organization (business entity 1st), the 1st website being a website of a charitable organization {see page 2, "Donate Online" or "Help Disaster Victims"};

(c) providing information regarding projects of the charitable organization to the donor {see "Tornado Victims Need your help", or "Picking up the Pieces", on page 2, or "Blood Donations" project, pages 7-8, or "National Rapid Response Corps", page 10},

(d) receiving a selection of a project from the donor;

(e) providing a plurality of contribution options to the donor the selected project, the contribution options comprising at least one of (a gift and at least one of the following other contribution options: a membership (see page 10), or a purchase of a tangible item page 2 "Last chance to order" or page 6);

(f) providing information to the donor regarding a minimum donation amount (page 6, a \$15.00 value and proceeds support your local Red Cross),

(g) receiving a selection of a contribution option from the donor {page 14}

(h) receiving an indication of a donation amount from the donor for the selection {page 14};

(i) receiving payment information from the donor for the selection {page 14};

(j) receiving delivery information from the donor for the selection {page 14};

(k) providing confirmation information to the donor for the selection {page 14};

(l) collecting transactional data concerning the donor, the donation amount, and the selection (inherently included as discussed on page 4, and the Red Cross normally provides a copy of the amount of donation and amount deductible for computing income and estate taxes at year end).

Note that the steps of (f) –(l) are well known charity fundraising managing and reporting parameters and the practices of these steps whether online or offline.

Www.redcross.org fairly teaches the claimed invention except for (1) step (b) for hyperlinking the customer (donor) to a 2nd website to allow the customer (donor) to do business (donating money), wherein the 2nd website does not belong to the first entity or Red Cross; (2) carrying out steps (c.)-(l) on the 2nd Internet website, and (3) step (f) contains information with respect to a tax deductible amount in conjunction with at least one of the other contribution options.

In a similar environment dealing with transaction of good/service between a customer and a business entity on the Internet/website, **BEZOS et al** discloses common problem facing online business entity is lacking resources to effectively carry out an online business such as processing online orders, shipping products, collecting payment, and providing customer service {see col. 1, lines 30-40, and especially col. 6, lines 41-47}, and providing an answer to the problem by hyperlinking the 1st website entity (1st business entity or “associate”) to a 2nd website entity (2nd business entity or “merchant”) to allow the customer, who accesses the 1st website entity and with interest to carry out a business activity (purchase an item or service) with the 1st website entity, to complete the same business activities (i.e. purchase an item or a service) at the 2nd website entity, thus allowing the 1st business entity to effectively become an online retailer immediately by simply enrolling and setting up a web site if it does not have sufficient resources to effectively handle online tasks such as processing online orders, shipping products, collecting payment, and providing customer service, etc. as

discussed above. Therefore, it would have been obvious to a skilled artisan to modify the teachings of www.redcross.org by including the teachings (b) hyperlinking to a 2nd website and carry out the same business activities (processing a donation activities) on the 2nd website if www.redcross.org wants to become an online business entity immediately and does not have the resources to effectively carry out an online business such as processing online orders, shipping products, collecting payment, and providing customer service as taught by BEZOS et al on col. 6, lines 41-47.

For convenience, col. 6, lines 41-47 is posted here:

“As described below, because the merchant handles the tasks of processing online orders, shipping products, collecting payment, and providing customer service, the associate need not be concerned with these tasks. Thus, the associate can effectively become an online retailer immediately, by simply enrolling as an associate and setting up a Web site.”

In view of the claim, the associate is or functions as the “1st entity” and the “merchant” is the “2nd entity” and the “customer” is the “donor”:

Note that on col. 8, BEZOS et al discloses that sales of product reads over sales of service or product. Therefore, offering any services that results in a financial transaction, i.e. donation of money, would read over business transaction and would have been obvious to a skilled artisan to combine the teachings of www.redcross.org and BEZOS et al since they both deal with business transaction. Also, on col. 7, lines 5-20, BEZOS et al teaches the concept of “hyperlinking” the display (information/data/product) on 1st website to a 2nd website for reviewing and carrying out

normal business transaction {see "catalog documents 120 served by the associate's site 100 including special hyperlinkings (to Web pages of the merchant Web site 106) for allowing consumers to select products for prospective purchase"}. Also, in col. 7, lines 52-60 "causes a product detail page 136 to be displayed on the customer computer 108. This detail page 136 is served by the merchant Web site 106, and includes various information provided by the merchant about the selected product." Therefore, it would have been obvious to modify the teachings of steps (c.) to (l) of www.redcross.org by hyperlinking these steps to a 2nd website reviewing and carrying out normal business transaction for the same reasons set forth above. Alternatively, the merchant (2nd) website has the ability to display all of the displayed information (product) as shown in the 1st website, it would have been obvious to display these information and carry out the business transactions on the 2nd website if desired.

The teachings of www.redcross.org /BEZOS ET AL teaches the claimed invention except for the well known charity donation feature of "providing information to providing information to the donor regarding a minimum monetary donation amount and a tax deductible amount in conjunction with at least one of the other contribution options" as shown on step (f).

In a similar environment dealing with charity auctions and tax law, **HOPKINS** fairly teaches a donation level in concert with the asset to the donor, a) deductible payment to a charity for those that exceed the fair market value of anything that the donor may receive in return, and b) no charitable deduction payment for those that

roughly equal to the fair market value of the item {see pages 3-4}. It would have been obvious to a skilled artisan, i.e. fundraising manager/marketer, at the time the invention was made to modify the teaching of www.redcross.org/ BEZOS ET AL by including the donation level in concert with the purchase of the item to indicate level of charitable deduction. Note that on page 6 of HOPKINS, the last 3 paragraphs, show that "every transaction at a charitable auction" is, in whole or substantial part, a "purchase", thus engaging in "sales".

As for dep. claims 19-20 (part of 18 above), which deals with well known contribution options parameters, i.e. the type of tangible items purchased, these are non-essential to the scope of the claimed invention and would have been obvious to a skilled artisan. Moreover, they are taught in www.redcross.org page 6. As for the limitation of plurality, this would have been obvious for duplicate or multiple effects.

As for dep. claim 21 (part of 18 above), which deals with well known contribution options parameters, i.e. textual information, this is non-essential to the scope of the claimed invention and would have been obvious to a skilled artisan as routine fundraising works. Moreover, this is taught in www.redcross.org, page 2.

As for dep. claims 22-23 (part of 18 above), which deals with well known contribution/fundraising managing parameters, e. providing transactional between websites and contribution options, etc., these are fairly taught by www.redcross.org on pages 4, 14-15, BEZOS et al on col. 16, lines 10-25, Appendix B on col. 18, especially lines 25-30.

As for the independent method claim 24, which has similar limitations as in independent method claim 18 above, but with an additional website for charity organization for fundraising from a 2nd donor, the duplicate of another or for a 2nd website and donor would have been obvious to a skilled artisan for obtaining multiple effects if desired. See *In re Harza*, 124 USPQ 378, CCPA 1960, or *St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549, (7ty Circ. 1977).

As for dep. claim 25 (part of 24 above), which has the same limitation as in dep. claim 22 above, it's rejected for the same reason set forth above.

As for the independent method claim 26, which appears to have duplicate parts independent method claim 18 above, similar elements (1) and (2) with 2 main steps (a) "linking" and last step (g) "link and allowing a donor to donate", which are similar to steps (a) and (b) of independent method claim 18 above, the duplicate of another element/process. or "(2) for the 2nd entity or 2nd charity website and a 2nd donor", website, 2nd central Internet website and 2nd donor, would have been obvious to a skilled artisan for obtaining multiple effects if desired, absent evidence of unexpected results. See *In re Harza*, 124 USPQ 378, CCPA 1960, or *St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549, (7ty Circ. 1977).

As for the remainder of the steps (b)-(f) in claim 26 on both elements (1) or (2), which merely deal with the first entity providing the second entity (central Internet website) information about its business activities with it's customer (well known fundraising and donation information as shown in www.redcross.org) so that these same business activities can be carried out on the 2nd website through the linking step,

these are fairly taught in BEZOS et al col. 11, lines 16-19, Figs. 3a-3c. Alternatively, they are inherently included in the teachings of www.redcross.org /BEZOS et al when combining www.redcross.org /BEZOS et al together which requires that when www.redcross.org decides to become an online business entity immediately, the enrolling process requires www.redcross.org to pass to BEZOS et al (2nd entity) all of the information with respect to fundraising and donation with a customer so that through a link, the customer can carry out the fundraising and donation tasks on the website of the 2nd entity as discussed above. www.redcross.org is simply enrolling as a partner (or associate) and setting up a website. See the paragraph cited above, col. 6, lines 41-47 above. Clearly, for the 2nd entity to process the works or business activities of the 1st entity (www.redcross.org), the 1st entity must provide information about its works or business activities to the 2nd website prior to the customer gets on the 2nd website to make a monetary contribution to the 1st entity or 1st charitable organization.

Response to Arguments

(1) In response to applicant's arguments against the references individually which appear to be the major points of arguments in the Appeal Brief, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant's comment on page 12, as cited on the table of pages 11-12, of the Appeal Brief that the steps of BEZOS ET AL are very different from the steps in claim 18 is noted, however,

this is not found persuasive in view of the examiner's citation in the rejection of claim 1 as shown in paragraph no. 18 above:

"Note that the steps of (f) –(l) are well known charity fundraising managing and reporting parameters and the practices of these steps whether online or offline.

Www.redcross.org fairly teaches the claimed invention except for: (1) step (b), (2) carrying out steps (c.)-(l) on the 2nd Internet website, and (3) step (f) contains information with respect to a tax deductible amount in conjunction with at least one of the other contribution options.

In a similar environment dealing with transaction of good/service between a customer and a business entity on the Internet/website, **BEZOS et al** discloses common problem facing online business entity is lacking resources to effectively carry out an online business such as processing online orders, shipping products, collecting payment, and providing customer service {see col. 1, lines 30-40, and especially col. 6, lines 41-47}, and providing an answer to the problem by hyperlinking the 1st website entity (1st business entity or "associate") to a 2nd website entity (2nd business entity or "merchant") to allow the customer, who accesses the 1st website entity and with interest to carry out a business activity (purchase an item or service) with the 1st website entity, to complete the same business activities (i.e. purchase an item or a service) at the 2nd website entity, thus allowing the 1st business entity to effectively become an online retailer immediately by simply enrolling and setting up a web site if it does not have sufficient resources to effectively handle online tasks such as processing online orders, shipping products, collecting payment, and providing customer service, etc. as

discussed above {see Fig. 1, elements 108, 100, 104, 106, Fig. 2, Fig. 5, steps Am B, D, and F, col. 1, lines 30-40, and especially col. 6, lines 41-47}. Therefore, it would have been obvious to a skilled artisan to modify the teachings of www.redcross.org by including the teachings (b) hyperlinking to a 2nd website and carry out the same business activities (processing a donation activities) on the 2nd website if www.redcross.org wants to become an online business entity immediately and does not have the resources to effectively carry out an online business such as processing online orders, shipping products, collecting payment, and providing customer service as taught by BEZOS et al on col. 6, lines 41-47.

For convenience, col. 6, lines 41-47 is posted here:

“As described below, because the merchant handles the tasks of processing online orders, shipping products, collecting payment, and providing customer service, the associate need not be concerned with these tasks. Thus, the associate can effectively become an online retailer immediately, by simply enrolling as an associate and setting up a Web site.”

In view of the claim, the associate is or functions as the “1st entity” and the “merchant” is the “2nd entity” and the “customer” is the “donor”:

Therefore, the differences in the steps of BEZOS et al are not essential since BEZOS ET AL are not cited for the teachings of steps (f) –(l) but only for the teachings of (1) hyperlinking the customer (donor), who accesses the 1st website with intention to do business, to a 2nd website serves like a host in the backend to allow the customer to carry out the same business activities as if the customer was on the 1st website. The 2nd website processing the same activities between the customer and the 1st website

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wherein the 1st website serves as "referral" or "introducer" then let the 2nd entity takes care the rest of activities so it can become an online entity immediately. Therefore, the specific activities carried out by BEZOS et al as cited on the left column on pages 11-12 to achieve its scope, are not relevant to the claimed invention since it's rejected on the combination of www.redcross.org /BEZOS et al and HOPKINS. As for the 2nd –4th elements of the left column, "The associate's web site ... for the Merchant's product", this reads over the essential limitation of "the customer indicates a general interest in doing business with the 1st entity " as shown step (a) of claim 18. The difference in the specific types of doing business or the scope or final product of the business is not essential and would have been obvious to a skilled artisan since the critical feature is hyperlinking to a 2nd website when a customer shows interest in doing business with the 1st entity. Also, as taught in BEZOS et al on col. 7, lines 9-19, and col. 11, lines 15-26, the use of "a hyperlink is provided for each product displayed" which connects to the 2nd website, serves as a referral mechanism for the 1st entity to receive credit for referral. Alternatively, if the 1st entity does not want to receive referral credit, the customer can go straight to the 2nd website without reviewing the products listed on the 1st website once the customer shows interest in doing business.

(2) As for applicant's comments with respect to the eight different modifications of BEZOS et al are required in order to arrive at the invention of claim 18 on pages 14-16, they are not persuasive, again as mentioned above, the differences in the steps of BEZOS et al or the 8 different modifications are not essential since BEZOS ET AL are not cited for the teachings of steps (f) –(l) but only for the teachings of (1) hyperlinking

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the customer (donor), who accesses the 1st website with intention to do business with the 1st entity, to a 2nd website serves like a host in the backend to allow the customer to carry out the same business activities as if the customer was on the 1st website. The 2nd website processing the same activities between the customer and the 1st website wherein the 1st website serves as “referral” or “introducer” then let the 2nd entity takes care the rest of activities so it can become an online entity immediately. The 2nd website or BEZOS et al, is not cited to teach the conventional fundraising steps of (f)-(l). Therefore, the specific activities carried out by BEZOS et al as cited on the left column on pages 11-12 to achieve its scope, are not relevant to the claimed invention since it's rejected on the combination of www.redcross.org /BEZOS et al and HOPKINS.

(3) Applicant's comment that the examiner has not pointed to any suggestion, motivation, or teaching for any of these modifications are not persuasive in view of the argument above and furthermore, the motivation for step (b) of hyperlinking the donor to a 2nd internet website to allow the donor to do well known fundraising activities are shown above “that the 1st business entity or “associate” can effectively become an online retailer immediately {see col. 6, lines 40-47} and/or further enhancing business efficiency since the 1st website lacks the resources needed to do business online, collecting payment, and providing customer services {col. 3, lines 20-25, col. 6, lines 40-47} and the 2nd website has the resources to provide efficient marketing and review, data analysis, and efficiently attract potential customers to the web site with capable advertising resources, and the 1st website need not be concerned with these tasks”.

(4) As for the comment on page 16, 2nd full paragraph, that the examiner has mischaracterized the teachings of BEZOS et al, this is not found persuasive because the main motivation (advantage) to combine www.redcross.org and BEZOS et al is based on col. 6, lines 40-47, as cited above. Moreover, there are always disadvantages when combining two business entities but the advantage benefits could outweigh the disadvantage or the disadvantage is not that critical. In this case, the disadvantage cited by the applicant's does not appear to be critical or secondary to the advantage as cited on col. 6, lines 40-47 or other benefits.

(5) Applicant's argument on page 16 with respect to the rejection of independent method claim 26 is noted, however, the argument is not persuasive in view of the rejection above, which is cited here for convenience.

"As for the independent method claim 26, which appears to have duplicate parts independent method claim 18 above, similar elements (1) and (2) with 2 main steps (a) "linking" and last step (g) "link and allowing a donor to donate", which are similar to steps (a) and (b) of independent method claim 18 above, the duplicate of another element/process. or "(2) for the 2nd entity or 2nd charity website and a 2nd donor", website, 2nd central Internet website and 2nd donor, would have been obvious to a skilled artisan for obtaining multiple effects if desired, absent evidence of unexpected results. See *In re Harza*, 124 USPQ 378, CCPA 1960, or *St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549, (7ty Circ. 1977).

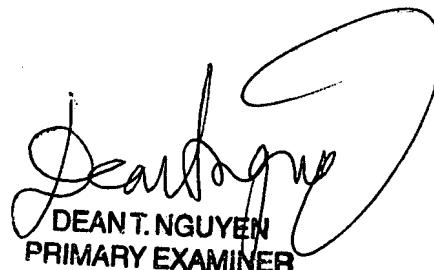
As for the remainder of the steps (b)-(f) in claim 26 on both elements (1) or (2), which merely deal with the first entity providing the second entity (central Internet

website) information about its business activities with it's customer (well known fundraising and donation information as shown in www.redcross.org) so that these same business activities can be carried out on the 2nd website through the linking step, these are fairly taught in BEZOS et al col. 11, lines 16-19, Figs. 3a-3c. Alternatively, they are inherently included in the teachings of www.redcross.org /BEZOS et al when combining www.redcross.org /BEZOS et al together which requires that when www.redcross.org decides to become an online business entity immediately, the enrolling process requires www.redcross.org to pass to BEZOS et al (2nd entity) all of the information with respect to fundraising and donation with a customer so that through a link, the customer can carry out the fundraising and donation tasks on the website of the 2nd entity as discussed above. www.redcross.org is simply enrolling as a partner (or associate) and setting up a website. See the paragraph cited above, col. 6, lines 41-47 above. Clearly, for the 2nd entity to process the works or business activities of the 1st entity (www.redcross.org), the 1st entity must provide information about its works or business activities to the 2nd website prior to the customer gets on the 2nd website to make a monetary contribution to the 1st entity or 1st charitable organization."

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Dean Tan Nguyen



DEAN T. NGUYEN
PRIMARY EXAMINER

Primary Examiner

Conferees of the Appeal Conference on May 31, 2007.

1) Vincent Millin, Appeals Practice Specialist, 

2) Janice Mooneyham, Primary Examiner 